

**AMENDMENT 1 TO  
DEVELOPER'S PUBLIC REPORT  
FOR A CONDOMINIUM**

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|---------------------------|--|
| CONDOMINIUM PROJECT NAME: | M & MKB GARDENS  |
| PROJECT ADDRESS:          | 45-589 Paleka Road<br>Kaneohe, Hawaii 96744  |
| REGISTRATION NUMBER:      | 7420   |
| EFFECTIVE DATE OF REPORT: | <b>January 29, 2014</b>  |
| THIS AMENDMENT:           | <input checked="" type="checkbox"/> Must be read together with<br><input checked="" type="checkbox"/> Developer's Public Report dated <u>September 20, 2013</u><br><input type="checkbox"/> Amended Report dated _____<br><br><input type="checkbox"/> Supersedes all prior amendments: Includes all prior amendment(s) and <u>must</u> be read together with<br><input type="checkbox"/> Developer's Public Report dated _____<br><input type="checkbox"/> Amended Report dated _____ |
| DEVELOPER(S):             | M & MKB LLC, a Hawaii limited liability company  |

**Preparation of this Amendment**

The Developer prepared this amendment pursuant to the Condominium Property Act, Section 514B-56, Hawaii Revised Statutes (HRS), as amended from time to time. Section 514B-56, HRS, requires that after the Commission has issued an effective date for the Developer's Public Report, if there are any changes, either material or pertinent changes, or both, regarding the information contained in or omitted from the Developer's Public Report, or if the developer desires to update or change the information set forth in the Developer's Public Report, the developer shall immediately submit to the Commission an amendment to the Developer's Public Report or an amended Developer's Public Report clearly reflecting the change, together with such supporting information as may be required by the Commission, to update the information contained in the Developer's Public Report.

The law defines "material change" as used in parts IV and V of Chapter 514B, HRS means any change that directly, substantially, and adversely affects the use or value of (1) A purchaser's unit or appurtenant limited common elements; or (2) Those amenities of the project available for the purchaser's use.

The law defines "pertinent change" to mean, as determined by the commission, a change not previously disclosed in the most recent public report that renders the information contained in the public report or in any disclosure statement inaccurate, including, but not limited to (1) The size, construction materials, location, or permitted use of a unit or its appurtenant limited common element; (2) The size, use, location, or construction materials of the common elements of the project; or (3) The common interest appurtenant to the unit. A pertinent change does not necessarily constitute a material change.

The filing of an amendment to the Developer's Public Report or an amended Developer's Public Report, in and of itself, shall not be grounds for a purchaser to cancel or rescind a sales contract. A purchaser's right to cancel or rescind a sales contract shall be governed by sections 514B-86 and 514B-87, HRS, the terms and conditions of the purchaser's contract for sale, and applicable common law.

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*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at (808) 586-2643 to submit your request.*

This Amendment has not been prepared or issued by the Real Estate Commission or any other governmental agency. The issuance by the Commission of an effective date for this amendment to the Developer's Public Report (1) does not mean that the Commission approves or disapproves of the project; (2) does not mean that the Commission thinks that either all material facts, material changes, or pertinent changes about the project have been fully or adequately disclosed; and (3) is not the Commission's judgment of the value or merits of the project.

The law defines "material facts" to mean any fact, defect, or condition, past or present that to a reasonable person, would be expected to measurably affect the value of the project, unit, or property being offered or proposed to be offered for sale.

This amendment may be used by the Developer for promotional purposes only if it is used with the last Developer's Public Report in its entirety.

Prospective purchasers and purchasers are encouraged to read this amendment carefully and to seek professional advice.

Summary of Changes from Earlier Developer's Public Report are Described Beginning on the Next Page

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Summary of Changes from Earlier Developer's Public Report:

This summary contains a general description of the changes, if any, made by the developer since the last Developer's Public Report was issued an effective date. It is not necessarily all inclusive. Prospective purchasers and purchasers must read this amendment together with the last Developer's Public Report with the effective date as noted on the top of page 1 if they wish to know the specific changes that have been made.

Changes made are as follows (include a description of what the change is and page number and or exhibit alphabet or number; additional pages may be used):

1. Property Description. When the Developer acquired the land that the Project is on, an incorrect property description was used in the conveyance document. In order to correct the property description, a Correction Quitclaim Deed dated November 18, 2013 was made and recorded in the Bureau of Conveyances, State of Hawaii.
2. Updated Description. A First Amendment to Declaration of Condominium Property Regime and Bylaws of the Association of Unit Owners was also recorded to correct the property description that was contained in Exhibit "A" to those instruments. A current preliminary title report (12-31-2013) was also obtained to confirm that the property Description for the Project is the same as what was contained in the Correction Quitclaim Deed and First Amendment to the Declaration and Bylaws of the Association of Unit Owners.

The foregoing changes affects the following pages that are a part of the Developer's Pubic Report:

Pages 5 (Section 5.12), 10 (Sections 3.1 and 3.2) and Exhibit "C" (items 2 and 4).

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Changes continued:

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The Developer declares subject to the penalties set forth in Section 514B-69, HRS that this project continues to conform to the existing underlying county zoning for the project, zoning and building ordinances and codes and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 514B-5 and 32(a) (13), HRS.

For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report as amended, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report as amended, along with the requirements to cure any violation, and Section 5.5 specifies the date by which the cure will be completed.

The Developer hereby certifies that all the information contained in this report as amended and the exhibits attached to this report (if any) as amended and all documents to be furnished by the Developer to purchasers concerning the project have been reviewed by the Developer and are, to the best of the Developer's knowledge, information and belief, true, correct and complete. The Developer hereby agrees promptly to amend this report as amended to report and include either or all material facts, material or pertinent changes to any information contained in or omitted from this report and to file annually a report to update the material contained in this report as amended at least 30 days prior to the anniversary date of the effective date of this report.

M & MKB LLC

Printed Name of Developer



Duly Authorized Signatory\*

1/8/14

Date

Paul Britos, Manager

Printed Name & Title of Person Signing Above

Distribution: City and County of Honolulu

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

**\*Must be signed for a corporation by an officer; for a partnership or limited liability partnership (LLP) by the general partner; for a limited liability company (LLC) by the manager or an authorized member; and for an individual by the individual.**

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### 1.9 Common Elements

**Common Elements:** Common elements are those parts of the condominium project other than the individual units and any other real estate for the benefit of unit owners. Although the common elements are owned jointly by all unit owners, those portions of the common elements that are designated as limited common elements (see Section 1.10 below) may be used only by those units to which they are assigned. In addition to the common facilities described in Section 1.8 above, the common elements for this project, as described in the Declaration, are set forth below.

Described in Exhibit B \_\_\_\_\_.

Described as follows:

| Common Element | Number |
|----------------|--------|
| Elevators      | 0      |
| Stairways      | 0      |
| Trash Chutes   | 0      |

### 1.10 Limited Common Elements

**Limited Common Elements:** A limited common element is a portion of the common elements that is reserved for the exclusive use of one or more but fewer than all units in the project.

Described in Exhibit B \_\_\_\_\_.

Described as follows:

### 1.11 Special Use Restrictions

The Declaration and Bylaws may contain restrictions on the use and occupancy of the units. Restrictions for this project include, but are not limited to, those described below.

|                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Pets: Domestic pets are permitted. See House Rules, Article VI. |
| <input type="checkbox"/>            | Number of Occupants:  |
| <input type="checkbox"/>            | Other:  |
| <input type="checkbox"/>            | There are no special use restrictions.                          |

### 1.12 Encumbrances Against Title

An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).

Exhibit C \_\_\_\_\_ describes the encumbrances against title contained in the title report described below.

Date of the title report: December 31, 2013

Company that issued the title report: Stewart Title Guaranty Company

### 3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances (Regular System) or filing in the Office of the Assistant Registrar of the Land Court, or both, a Declaration of Condominium Property Regime, a Condominium Map and the Bylaws of the Association of Unit Owners. The Condominium Property Act (Chapter 514B, HRS), the Declaration, Bylaws and House Rules control the rights and obligations of the unit owners with respect to the project and the common elements, to each other, and to their respective units.

#### 3.1 Declaration of Condominium Property Regime

The Declaration of Condominium Property Regime contains a description of the land, buildings, units, common interests, common elements, limited common elements, and other information relating to the condominium project.

| Land Court or Bureau of Conveyances | Date of Document | Document Number |
|-------------------------------------|------------------|-----------------|
| Bureau of Conveyances               | July 19, 2013    | A-49730899      |

##### Amendments to Declaration of Condominium Property Regime

| Land Court or Bureau of Conveyances | Date of Document  | Document Number |
|-------------------------------------|-------------------|-----------------|
| Bureau of Conveyances               | November 18, 2013 | A-51200692      |
|                                     |                   |                 |
|                                     |                   |                 |
|                                     |                   |                 |

#### 3.2 Bylaws of the Association of Unit Owners

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters that affect how the condominium project will be governed.

| Land Court or Bureau of Conveyances | Date of Document | Document Number |
|-------------------------------------|------------------|-----------------|
| Bureau of Conveyances               | July 19, 2013    | A-49730900      |

##### Amendments to Bylaws of the Association of Unit Owners

| Land Court or Bureau of Conveyances | Date of Document  | Document Number |
|-------------------------------------|-------------------|-----------------|
| Bureau of Conveyances               | November 18, 2013 | A-51200692      |
|                                     |                   |                 |
|                                     |                   |                 |
|                                     |                   |                 |

#### 3.3 Condominium Map

The Condominium Map contains a site plan and floor plans, elevations and layout of the condominium project. It also shows the floor plan, unit number and dimensions of each unit.

|  |      |
|--|------|
| Land Court Map Number                                      |      |
| Bureau of Conveyances Map Number                           | 5196 |
| Dates of Recordation of Amendments to the Condominium Map: |      |
|  |      |

EXHIBIT "C"

Encumbrances Against Title

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Covenants, conditions, restrictions, agreements, obligations, exceptions and other provisions contained in the Declaration of Condominium Property Regime for M & MKB Gardens dated July 19, 2013, recorded in said Bureau, as Document No. 49730899 and a First Amendment to Declaration dated November 18, 2013, recorded in said Bureau, as Document No. A-51200692.
3. Condominium Map No. 5196, and any amendments thereto filed in the Bureau of Conveyances, State of Hawaii.
4. The terms and provisions contained in the Bylaws of the Association of Unit Owners dated July 19, 2013, recorded in said Bureau, as Document No. A-49730900, as amended by instrument recorded in said Bureau, as Document No A-51200692.
5. Mortgage dated January 4, 2013 in favor of Finance Factors, Limited, a Hawaii corporation, recorded in said Bureau, as Document No. T-8410168. \*(Also affects other property)
6. Assignment of Leases and Rents dated January 4, 2013, in favor of Finance Factors, Limited, a Hawaii corporation, recorded in said Bureau, as Document No. A-47580439. \*(Also affects other property)
7. Financing Statement in favor of Finance Factors, Limited, a Hawaii corporation, filed in said Bureau, as Document No. A-47580440. \*(Also affects other property)
8. For Real Property Taxes that may be due and owing reference is made to the Department of Finance, City and County of Honolulu.

NOTE: These instruments were not amended to correct the property description. These instruments will probably be replaced with new mortgage loan documents.